

## COLLECTION OF EVIDENCE

It is important that the investigator understand what evidence is and its purpose, at what stages of the investigative process it is obtained, and how and by whom it is obtained. Staff must collect evidence in order to conduct a thorough investigation and reach an investigative conclusion.

Evidence is defined as, something that makes another thing evident or tends to prove a fact at issue to be true and/or grounds for belief that a fact at issue is true.

Evidence of child abuse/neglect presents itself in a variety of forms; verbal evidence, such as witness statements, and physical evidence, such as clothing, instruments, weapons, etc. The Children's Division (CD) investigator does not have the authority within policy, to collect physical evidence. However, the worker is authorized/expected to collect the following types of evidence using the methods prescribed:

- The most common type of evidence available to the investigator is statements made by the victim, witness(es), alleged perpetrator, and collateral(s). Statements may be collected and documented by one or more of the following methods:
  - A personal face-to-face interview which is recorded in a factual summarization on the CPS-1;
  - An audio taped recording of the interview. The tape should be preserved and may be either transcribed or summarized on the CPS-1 and filed in the case record;
  - An audio-visual taped recording of the interview. The tape should be preserved and may be either transcribed and placed in the investigation section of the case record or factually summarized on the CPS-1;
  - A written signed statement as provided by the witness. Such statements should be filed in the investigation section of the case record.

Taped and written statements are particularly important as evidence in judicial proceedings where the witness attempts to recant an earlier statement made to the investigator.

- The investigator will also obtain or generate a variety of documents/reports during the investigation process, which will serve as evidence to support an investigative conclusion. These statements will be used for judicial proceedings. Generated reports/documents include reports, forms, and records produced by CD staff. Obtained reports/documents include medical reports, psychological/psychiatric evaluations, police reports, written statements, etc.

The investigator should take the following steps in obtaining and reviewing documents/reports that are to be used as evidence in a CA/N investigation:

- Initial all pages of any original document the worker is allowed to view but not copy. This will assist the worker in identifying the document during judicial proceedings as one reviewed during the investigation. The worker should make detailed notes of any such documents and include pertinent factual information on the CPS-1;
- Place an identifying mark on each page of a copy of a document/report received/reviewed during the investigation.

Do not make notes on or otherwise alter the copies so that they can be admitted as evidence in the judicial proceedings.

#### AUDIO RECORDINGS:

The use of audio tape recording may be very helpful in accurately documenting the investigative interview. However, it may also serve to unnecessarily intimidate the person and impede communication. If staff feels the need to tape the interview, the client/subject must be aware of the taping and its purpose; such as, increase accuracy and reduce note taking. If the client/subject refuses to be taped, staff shall terminate the taping immediately and proceed with the interview.

Parent/caretaker permission should be sought before taping an interview with a child. If the parent/caretaker is unavailable to provide permission, staff may proceed with the taping, but must notify the parent/caretaker as soon as possible after the fact. The child's permission, if age appropriate, shall be sought and an explanation shall be given for the taping. Prior to the taping the child, if age appropriate, shall be advised that the contents of the tape may be available to the parent/caretaker or perpetrator, pursuant to Section 210.150 RSMo.

The tape is considered to be part of the case record. The tape should not be erased and should only be destroyed when the case record is scheduled to be destroyed per state statutes. Necessary information transcribed from the tape is to be included in the case record. While the complete transcription of the interview may be quite useful at times, staff should be sensitive to the amount of clerical time needed to accomplish this. Therefore, staff should use their best judgment on whether all, or part, or the tape should be transcribed verbatim, or whether the content may be summarized for inclusion into the record. If the tape recording pertains to an incident where future court involvement is likely, the recording should be kept in a secure location until the court process concludes.

The client/subject, or his/her designee, is permitted to audio tape record or videotape an interview without staffs' consent. In these instances, staff may want to audio record the interview for their own documentation. Client/subject permission to record the interview is not required when the client/subject is also recording.

#### POLYGRAPHS:

Alleged perpetrators should contact an attorney or law enforcement to arrange a polygraph, should they want to have one conducted. The alleged perpetrator can arrange to have the outcome provided to the Children's Service Worker for inclusion in their record.

#### PHOTOGRAPHS:

Photographs serve as a record of an incident to show particular items of evidence and their relationship to the scene. Photographs also provide close-up records of significant portions of a scene. CD investigators have the authority to use photography as a means of recording evidence. However, the general use of cameras is dependent upon the approval of the local county director. Whenever possible, staff are encouraged to have a law enforcement officer or juvenile officer take the photographs. The investigator shall not take photographs of physically and sexually abused children as this is best done by the appropriate professional. The worker may want to take photographs of serious/severe neglect situations where a co-investigator is not present during the investigation. The use of photography requires the investigator to use his/her prudent professional judgment and use the following guidelines:

- Familiarize himself/herself with the photographic equipment and basic photography techniques;
- Obtain permission of the subject and/or parent/caretaker before taking photographs;
- Use color film;
- Take several photographs of each scene to ensure one, which will be a fair and accurate representation of the scene. The photograph must be properly exposed, well lighted, and technically correct, to be accepted as evidence in judicial proceedings;
- Have the film developed by a professional photographic technician. The photographic technician shall be required to return all negatives and discarded pictures to the worker to protect confidentiality.
- Place the photographer's name, date the photograph was taken and the subject on the back of the photograph;
- Place all photographs and/or negatives in an available storage area which is not readily accessible by others.

#### PHYSICAL ABUSE:

CD investigative staff are not authorized to collect physical evidence. However, they should be knowledgeable of the types of physical evidence which may exist based on the reported incident. In addition, they should be observant and identify, whenever possible, the presence or possible presence of physical evidence when conducting an investigation. This allows the investigator to provide an accurate, written description of such evidence and to notify the proper

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law enforcement officials or juvenile officer and/or to request a co-investigator to search for/seize the physical evidence. If, at any time, the investigator is voluntarily given an object of the physical evidence, he/she should immediately turn it over to the proper law enforcement authorities or the juvenile officer.

Physical evidence collected and stored by law enforcement, medical professional, etc. should be identified on the CPS-1.

The collection of evidence is a critical element in conducting a thorough CA/N investigation. Each piece of evidence should be carefully evaluated for credibility and consistency. In addition, it should be carefully preserved by way of a factual summary placed in the case record or placed in a storage area, which is not readily accessible by others.

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